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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,376	03/31/2000	Robert Justice Shartle	LFS-105	3494

7590 09/25/2003

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16
EXAMINER

WALLENHORST, MAUREEN

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/541,376

Applicant(s)

SHARTLE, ROBERT JUSTICE

Examiner

Maureen M. Wallenhorst

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Maureen M. Wallenhorst
MAUREEN M. WALLENHORST
PRIMARY EXAMINER
GROUP ~~100~~ 1700

Maureen M. Wallenhorst
Primary Examiner
Art Unit: 1743

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Naka et al fails to teach of a second stop junction in the device that impedes sample flow such that sample fills the measurement area of the device first before flowing to the bypass channel. However, in Figure 5a of Naka et al, it is shown how the second stop junction 6a impedes sample flow to the bypass channel 6 while the measurement area 3 is filled with sample first. In addition, Applicant argues that Naka et al fail to teach of a second stop flow junction since portion 6a of the device taught therein is only a small diameter bypass channel to impede sample flow. In response to this argument, it is noted that Applicant admits on page 6, lines 12-13 of the response filed on Sept. 12, 2003 that the stop junctions in the instant invention function via a discontinuity of channel cross section, which is exactly the manner in which the stop junction 6a taught by Naka et al functions. Therefore, the small diameter bypass channel 6a taught by Naka et al does serve as a stop junction since it impedes sample flow into the overflow channel 6 until the sample has first filled the measurement region 3 of the device.